UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION

Sacramento River Division, Central Valley Project, California

AMENDATORY CONTRACT BETWEEN THE UNITED STATES AND CONAWAY PRESERVATION GROUP, LLC, DIVERTER OF WATER FROM SACRAMENTO RIVER SOURCE SETTLING WATER RIGHTS DISPUTES AND PROVIDING FOR PROJECT WATER

1	THIS AMENDATORY CONTRACT, made this day of, 2012,
2	pursuant to the applicable authority granted to it generally in the Act of June 17, 1902 (32 Stat. 388),
3	and acts amendatory or supplementary thereto, including, but not limited to, the Acts of
4	August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as
5	amended and supplemented, including, but not limited to, Sections 9 and 14 thereto, July 2, 1956
6	(70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
7	(100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706),
8	all collectively hereinafter referred to as Federal Reclamation law, and CONAWAY
9	PRESERVATION GROUP, LLC, hereinafter referred to as the Contractor, acting pursuant to
0	Sections 12003 and 12004 of the California Water Code, with its principal place of business in
1	California;
2	WITNESSETH, That:
3	EXPLANATORY RECITALS
4	[1 st] WHEREAS, the Contractor holds post-1914 appropriative water rights under
5	water right licenses 904, 905 and 5487, administered and enforced by the California State Water
6	Resources Control Board (hereinafter, SWRCB); and

17	[2 nd] WHEREAS, water made available pursuant to the above water right licenses	
18	allow the Contractor to divert water from the Sacramento River for irrigation of the Contractor's	
19	lands; and	
20	[3 rd] WHEREAS, the terms and conditions for delivery of this supply of water are	
21	described in "Contract Between the United States and Conaway Preservation Group, LLC,	
22	Diverter of Water From Sacramento River Sources, Settling Water Rights Disputes and	
23	Providing for Project Water", Contract No. 14-06-200-7422A-R-1, dated March 4, 2005,	
24	(hereinafter, "Existing Contract"), of which contract provides a Base Supply of 50,190 acre-feet	
25	and a supplemental supply of 672 acre-feet of water annually from the Central Valley Project for	
26	irrigation of the Contractor's lands delineated on Exhibit B of the Existing Contract; and	
27	[4 th] WHEREAS, on December 21, 2010, the Contractor entered into a Water	
28	Agreement with the Woodland-Davis Clean Water Agency (hereinafter Agency) and Tri-City	
29	Water and Farms, LLC to convey its interest in 10,000 acre-feet of water made available under	
30	water right licenses 904 and 5487; and	
31	[5 th] WHEREAS, on March 17, 2011, the Contractor petitioned the SWRCB to split	
32	water right licenses 904 and 5487, add an additional purpose of use and add an additional point	
33	of diversion all for the purpose of assigning a portion of water right licenses 904 and 5487 to the	
34	Agency; and	
35	[6 th] WHEREAS, pursuant to SWRCB Order No, dated, the	Comment [BOR1]: Official SWRCB Order No. and date to be inserted prior to execution
36	Contractor's petition for change was granted, and water right licenses 904A and 5487A has been	<u></u>
37	issued to the Agency and water right licenses 904B and 5487B issued to the Contractor, each	

subject to specific terms and conditions for its exercise; and

38

39	[7 th] WHEREAS, in order to validly recognize these water right changes, this
10	amendment to the Existing Contract is necessary to modify the water quantities of the
11	Contractor, and authorize an additional purpose of use; and
12	[8 th] WHEREAS, a new Sacramento River Water Right Settlement Contract will be
13	required to be executed between the United States and the Agency to recognize the assigned
14	water right from the Contractor; and
15	[9 th] WHEREAS, it is the parties' intent that this amendment, consistent with the terms
16	and conditions herein, fully recognize the water right changes ordered pursuant to SWRCB
17	Order No;
18	NOW, THEREFORE, in consideration of the mutual and dependent covenants
19	herein contained, it is hereby mutually agreed by the parties hereto as follows:
50	MODIFICATION TO EXISTING CONTRACT
51	
52	1. Article 3 of the Existing Contract entitled WATER TO BE FURNISHED TO
53	CONTRACTOR is amended as follows:
54	(a) Subdivision (c) of Article 3 of the Existing Contract is amended to
55	include municipal and industrial as a purpose of use :
66	(c) Before April 1 and before the first day of each month thereafter
57	when a revision is needed, the Contractor shall submit a written schedule to the
58	Contracting Officer indicating the Contract Total to be diverted by the Contractor for
59	agricultural and municipal and industrial purposes during each month under this
50	Settlement Contract.

(b) Subdivision (f) of Article 3 of the Existing Contract is amended, and redesignated as subdivision(f)(i) and subdivision (f)(ii) is added:

with the terms and conditions of Licenses 904B and 5487B, or surface water transferred to the Contractor pursuant to a separate Order of the State Water Resources Control Board or obtained otherwise from others in a manner consistent with the requirements of state law, to replace the water diverted under Licenses 904A and 5487A or to offset the adverse effect, if any, resulting from in lieu groundwater pumping. The Contractor shall not divert surface water under any other existing right, whether riparian, appropriative, or other, to substitute for reductions in diversions under Licenses 904B and 5487B or to offset any adverse effect, if any, from in lieu groundwater pumping. Furthermore, notwithstanding any contrary provisions of law, specifically Section 3405(a)(1)(M) of the CVPIA, any surface water transferred to the Contractor for the purpose of replacing any of the water assigned to Licenses 904A and 5487A must meet the requirements of state law and those of CVPIA, including, but not limited to, Sections 3405(a)(1)(A) and 3405(a)(1)(B)

2. Article 4 of the Existing Contract entitled <u>RETURN FLOW</u> is amended to add municipal and industrial as a purpose of use:

Nothing herein shall be construed as an abandonment or a relinquishment by the United States of any right it may have to the use of waste, seepage, and return flow water derived from water diverted by the Contractor hereunder and which escapes or is discharged beyond the boundaries of the lands shown on Exhibit B; *Provided*, That this shall not be construed as claiming for the United States any right to such water which is recovered by the Contractor

Comment [BOR2]: Existing language is derived from Reclamation's current change petition protest dismissal conditions. Final language to be consistent with final board order

Contract No.	14-06-200-7422A-R-	1
	(Amendment No. 1)

84	pursuant to California law from within the boundaries of the lands shown on Exhibit B, and
85	which is being used pursuant to this Settlement Contract for surface irrigation, municipal and
86	industrial use, or underground storage for the benefit of the lands shown on Exhibit B by the
87	Contractor.
88	3. Article 7 of the Existing Contract entitled <u>USE OF WATER FURNISHED</u>
89	TO CONTRACTOR is amended as follows:
90	(a) Subdivision (a) of Article 7 of the Existing Contract is amended and
91	replaced in its entirety with the following new subdivision (a):
92	(a) Base Supply and Project Water furnished to the Contractor
93	pursuant to this Settlement Contract may be delivered or furnished by the Contractor for
94	agricultural or municipal and industrial purposes. For purposes of this Settlement
95	Contract, "agricultural purposes" includes, but is not restricted to, the irrigation of crops,
96	the watering of livestock, incidental domestic use including landscape irrigation, and
97	underground water replenishment; and "municipal and industrial purposes" shall mean
98	fish and wildlife enhancement. The Contractor shall not deliver or furnish Base Supply
99	or Project Water for any other purpose without the approval of the Contracting Officer.
100	(b) Subdivision (b) of Article 7 of the Existing Contract is amended and
101	redesignated as subdivision (b)(1), and subdivision (b)(2) is added:
102	(b)(2) Consistent with the Contracting Officer's protest dismissal
103	conditions included in SWRCB Order No, the Contractor shall ensure that
104	preparation and approval of a Mitigation Plan and implementation of the mitigation
105	measures stipulated in the Mitigation Plan shall occur prior to and during the term of this

Comment [BOR3]: Language to be consistent with change petition dismissal conditions

Contract.

106

107	4. Article 8 of the Existing Contract entitled <u>RATE AND METHOD OF</u>
108	PAYMENT FOR WATER is amended as follows:
109	(a) Subdivision (a) of Article 8 of the Existing Contract is amended by
110	adding the following to the end of that subdivision:
111	(a) Provided further, That to enable the Contracting Officer to
112	compute the applicable Rates and Charges for Project Water diverted by the Contractor
113	for municipal and industrial purposes, prior to initiating any such diversions, the
114	Contractor shall provide the Contracting Officer with an estimate of the annual quantities
115	of Project Water to be diverted or furnished for such purposes through the end of the
116	CVP repayment period as identified in the then-current ratesetting policies.
117	(b) The first sentence in subdivision (j) of Article 8 of the Existing
118	Contract is amended and replaced with the following:
119	(j) Each payment to be made pursuant to subdivisions (a) and (c) of
120	this Article shall be made at the office of the Bureau of Reclamation, MP Region:
121	Bureau of Reclamation, Mid-Pacific, P.O. Box 301502, Los Angeles, CA 90030-1502,
122	or at such other place as United States may designate in a written notice to the said
123	Contractor.
124	5. Article 10 of the Existing Contract entitled <u>MEAUREMENT OF WATER</u> is
125	amended by adding a new subdivision (h) at the end of that article:
126	(h) The Contractor shall inform the Contracting Officer on or before the 10 th
127	calendar day of each month of the quantity of Contract total diverted or furnished for agricultural
128	and municipal and industrial purposes during the preceding month.

129	6. The first sentence of Article 22 of the Existing Contract entitled NOTIC	ES is	
130	amended and replaced with the following:		
131	Any notice, demand, or request authorized or required by this Settlement Contract s	hall	
132	be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,	or	
133	delivered to the Area Manager, Northern California Area Office, Bureau of Reclamation, 16349		
134	Shasta Dam Boulevard, Shasta lake, California 96019, and on behalf of the United States, v		
135	mailed, postage prepaid, or delivered to Conaway Preservation Group, LLC, 401 Watt Avenue,		
136	Suite 4, Sacramento, California 95864.		
137	7. Exhibit A to the Existing Contract, entitled <u>Schedule of Monthly Divers</u>	ions	
138	of Water is hereby amended dated, and attached hereto to reflect reductions	in	
139	Base Supply quantities and the addition of a new point of diversion.		
140	8. Exhibit B to the Existing Contract, entitled Map of Contractor's Owner	<u>ship</u>	
141	is hereby amended dated, and attached hereto to reflect updated land ownersh	ip	
142	and the addition of a new point of diversion.		
143	EXISTING CONTRACT		
144	9. Except as specifically provided herein, the Existing Contract shall continue	in	
145	full force and effect as originally written and executed.		

146	IN WITNESS WHEREOF, the parties hereto have executed this Amendatory		
147	Contract as of the day and year first above written.		
148	UNITED STATES OF AMERICA		
149 150 151	By: Regional Director, Mid-Pacific Region Bureau of Reclamation (SEAL)		
152	CONAWAY PRESERVATION GROUP, LLC		
153 154 155	By:		

Exhibit A

CONAWAY PRESERVATION GROUP, LLC Sacramento River

SCHEDULE OF MONTHLY DIVERSIONS OF WATER

	Base Supply (acre-feet)	Project Water (acre-feet)	Contract Total (acre-feet)
April	6,890	0	6,890
May	13,970	0	13,970
June	12,190	0	12,190
July	1,570	304	1,874
August	480	288	768
September	3,230	80	3,310
October	1,860	0	1,860
Total	40,190	672	40,862

Points of Diversion: 12.0R. 11.9R

Dated: MM-DD-YYYY